

AUL Q. GOYETTE, SB 137250
TAWNI O. PARR, SB 209626
GOYETTE & ASSOCIATES, INC.
11344 COLOMA ROAD, SUITE 145
GOLD RIVER, CA 95670
916-851-1900
916-851-1995 FACSIMILE

ATTORNEYS FOR DEFENDANT
STEPHEN SCARSELLA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT
SACRAMENTO DIVISION

MEL TYRONE EDWARD,
Plaintiff,

v.

STEPHEN SCARSELLA, et al.
Defendants.

Case No. CIV-S-03-2584 LKK KJM P

**DEFENDANT SCARSELLA'S EX
PARTE APPLICATION TO EXTEND
TIME FOR DEFENDANTS TO FILE
AN OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

ORDER

Pursuant to Local Rule 6-144, Defendant STEPHEN SCARSELLA applies *ex parte* for an extension of time for Defendants file their oppositions to Plaintiff's Motion for Summary Judgment, filed with the Court on or around April 25, 2005. By this application, STEPHEN SCARSELLA seeks an extension on behalf of himself and the Defendants in this matter to June 10, 2005 (45 days from the date of Plaintiff's filing his Motion for Summary Judgment and allowing for Memorial Day) to file an opposition to the Motion, for the reasons set forth below.

Inasmuch as Plaintiff is incarcerated, and because of the limited time in which to seek a stipulation for an extension of time, it is unlikely Defendant will be able to obtain a stipulation from Plaintiff before the opposition due date. (Par. 6, Declaration of Paul Q. Goyette filed herewith). Counsel for Defendant SCARSELLA has contacted David A. Carrasco, counsel for Defendants CALDERA, CARRERA, and MATHEWS and Mark Kruger, counsel for Defendant SAUNDERS

1 who stipulate to and join in this Application. (Par. 5, Declaration of Paul Q. Goyette) Defendant
2 SCARSELLA nor any other Defendant has previously requested an *ex parte* extension of time from
3 this Court in this matter. (Id. at Par. 7)

4 An extension of time is necessary, inasmuch as Defendant SCARSELLA has only recently
5 appeared in this matter and did not receive notice of Plaintiff's Motion for Summary Judgment until
6 Defendant SCARSELLA obtained the Court's file on April 27, 2005 and became aware of such
7 filing. (Par. 2, Declaration of Paul Q. Goyette) Further, given the factual disputes, the time required
8 to contact witnesses and prepare affidavits, and the fact that counsel for Defendant SCARSELLA
9 is not in possession of all of the discovery, additional time is required to prepare the opposition so
10 that the issues may be fully and fairly presented to the Court. (Id. at Par. 4) An extension of time
11 for all Defendants would also eliminate the need for Plaintiff to file a Reply at different intervals and
12 would thereby reduce any confusion, and needless waste of time and resources for Plaintiff and the
13 Court.

14 Accordingly, Defendant SCARSELLA requests that an extension of time of 45 days be
15 granted and Defendant's oppositions be filed no later than June 10, 2005.

16 By signing below Defendants hereby stipulate and join in the Application:

17
18 Dated: April 29, 2005

GOYETTE & ASSOCIATES, INC.
A Professional Law Corporation

/S/

Paul Q. Goyette
Attorney For Defendant Stephen Scarsella

21 Dated: April 29, 2005

MARK R. KRUGER, ESQ.

/S/

Mark R. Kruger, Esq.
Attorney For Defendant Richard Saunders

24 Dated: April 29, 2005

ATTORNEY GENERAL OF THE STATE OF
CALIFORNIA

/S/

David A. Carrasco
Attorney For Defendants Caldera, Carrera, and
Mathews

Case : Edward v. Scarsella, et al.
Number: Civ-S-03-2584 LKK KJM P

ORDER

GOOD CAUSE appearing, Defendant SCARSELLA's *ex parte* application to extend time for Defendants to file an opposition's to Plaintiff's Motion for Summary Judgment is GRANTED. Defendants' oppositions shall be filed with this court by June 10, 2005.

IT IS SO ORDERED.

Dated: May 2, 2005.


UNITED STATES MAGISTRATE JUDGE